

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

HEATH A. WILKINS, Register No. 99947,)	
)	
Plaintiff,)	
)	
v.)	No. 08-4160-CV-C-NKL
)	
STEVE LONG, et al.,)	
)	
Defendants.)	

ORDER

On August 7, 2009, plaintiff filed a motion to strike defendants' jury demand. Defendants do not oppose plaintiff's motion. Plaintiff's motion for a nonjury trial in this case is granted.

On October 23, 2009, plaintiff filed a motion for an extension of time to identify John Doe defendants. Plaintiff states the John Doe defendants are persons that were "directly involved" in the decision to deny him parole in 2000, 2005, 2007 and 2009. Plaintiff appears to be seeking the names of previous parole board members. Defendants have filed a response in opposition, citing plaintiff's motion as futile. Defendants note plaintiff seeks only declaratory and injunctive relief relating to his eligibility for parole, and is suing defendants in their official capacities only, and therefore, there is no basis for plaintiff's attempt to name additional John Doe defendants beyond the current parole board members already identified and served as defendants in this case. Defendants further cite to Rule 25 of the Federal Rules of Civil Procedure in support, which states that when a public officer ceases to hold office, the officer's successor is automatically substituted as a party. Upon review, this court finds defendants' arguments to have merit, and plaintiff's motion for an extension of time is denied.

Plaintiff has not completed service of process on the John Doe defendants, and defendants Wayne Crump and Robert Robinson, as required by Rule 4(m) of the Federal Rules of Civil Procedure. Therefore, plaintiff's claims against these defendants are dismissed, without prejudice.

In light of defendants' response to plaintiff's motion to compel discovery indicating they were not aware of plaintiff's second request and are preparing a response at this time, plaintiff's motion is denied, without prejudice.

IT IS, THEREFORE, ORDERED that plaintiff's motion for an extension of time is denied. [61] It is further

ORDERED that plaintiff's motion to compel is denied, without prejudice. [62] It is further

ORDERED that plaintiff's unopposed motion to strike jury trial demand is granted, and any trial conducted in this case will be a nonjury trial. [49] It is further

ORDERED that plaintiff's claims against John Doe defendants, and defendants Wayne Crump and Robert Robinson are dismissed, without prejudice, pursuant to Rule 4(m).

/s/ _____

NANETTE K. LAUGHREY
United States District Judge

Dated: December 2, 2009
Jefferson City, Missouri